

PATENT COOPERATION TREATY

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To:

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REMINDED	NEED	DONE
1	2	
OK	OK	OK
13 . . . 004		

PCT

No response

WRITTEN OPINION (PCT Rule 66)

Applicant's or agent's file reference B431 PCT		Date of mailing (day/month/year) 08.04.2004
International application No. PCT/GB 03/02889		REPLY DUE within 3 month(s) from the above date of mailing
International filing date (day/month/year) 04.07.2003	Priority date (day/month/year) 16.07.2002	
International Patent Classification (IPC) or both national classification and IPC G02B6/25		
Applicant TYCO ELECTRONICS RAYCHEM NV		

1. This written opinion is the **first** drawn up by this International Preliminary Examining Authority.
2. This opinion contains indications relating to the following items:
 - I ☒ Basis of the opinion
 - II ☐ Priority
 - III ☒ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - IV ☐ Lack of unity of invention
 - V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - VI ☐ Certain documents cited
 - VII ☐ Certain defects in the international application
 - VIII ☐ Certain observations on the international application
3. The applicant is hereby **invited to reply** to this opinion.

When? See the time limit indicated above. The applicant may, before the expiration of that time limit, request this Authority to grant an extension, see Rule 66.2(d).

How? By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.

Also: For an additional opportunity to submit amendments, see Rule 66.4.
For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4 bis.
For an informal communication with the examiner, see Rule 66.6.

If no reply is filed, the international preliminary examination report will be established on the basis of this opinion.
4. The final date by which the international preliminary examination report must be established according to Rule 69.2 is: **16.11.2004**

Name and mailing address of the international preliminary examining authority: European Patent Office - Gitschiner Str. 103 D-10958 Berlin Tel. +49 30 25901 - 0 Fax: +49 30 25901 - 840	Authorized Officer Andreassen, J Formalities officer (incl. extension of time limits) Geier, A Telephone No. +49 30 25901-706
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I. Basis of the opinion

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed"*):

Description, Pages

1-15 as originally filed

Claims, Numbers

1-8, 14-21 received on 22.12.2003 with letter of 18.12.2003

Drawings, Sheets

1/22-22/22 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.
- These elements were available or furnished to this Authority in the following language: , which is:
- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
 - ☐ the language of publication of the international application (under Rule 48.3(b)).
 - ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).
3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:
- ☐ contained in the international application in written form.
 - ☐ filed together with the international application in computer readable form.
 - ☐ furnished subsequently to this Authority in written form.
 - ☐ furnished subsequently to this Authority in computer readable form.
 - ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
 - ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.
4. The amendments have resulted in the cancellation of:
- ☐ the description, pages:
 - ☒ the claims, Nos.: 18
 - ☐ the drawings, sheets:
5. ☐ This opinion has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).
6. Additional observations, if necessary:

III. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been and will not be examined in respect of:

☐ the entire international application,

☒ claims Nos. 9-13,22-39

because:

☐ the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (specify):

☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. are so unclear that no meaningful opinion could be formed (*specify*):

☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.

☒ no international search report has been established for the said claims Nos. 9-13,22-39

2. A written opinion cannot be drawn due to the failure of the nucleotide and/or amino acid sequence listing to comply with the Standard provided for in Annex C of the Administrative Instructions:

☐ the written form has not been furnished or does not comply with the Standard.

☐ the computer readable form has not been furnished or does not comply with the Standard.

V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	1-8,14,16-20
Inventive step (IS)	Claims	15,21
Industrial applicability (IA)	Claims	

2. Citations and explanations

see separate sheet

1. Reference is made to the following documents:

D1: US-A-4976390
D2: US-A-4893892
D3: US-A-4229876
D4: US-A-4621754
D5: WO-A-0041013

Regarding Item III : Non-Establishment of Opinion

2. Because the applicant has not paid the requested additional search fees within the given time limit will the examination be limited to the first invention according to Rule 46.1 (EPC).

Therefore will this communication only consider the amended claim nos. 1-8 and 14-21.

Regarding Item V : Novelty and Inventive Step

3. Novelty

- 3.1 The document D1 is regarded as being the closest prior art to the subject-matter of independent claim 1, and discloses (fig.4; column 1, line 39 - column 4, line 2):

A device (12, fig.4) for cleaving an optical fibre (40), comprising a fixing mechanism to fix a fixing element (20h) to the optical fibre, and a cleaving mechanism (20d) to cleave the optical fibre (column 3, lines 29-39), (claim 1).

- The subject matter of independent claim 1 is therefore not new.
- The same objection can be based on documents D2-D5.

- 3.2 The features of amended dependent claims 3-7, 14, 16, 18 and 20 are present in D1 too, therefore are these features not new.
- 3.3 The features of amended dependent claims 17 and 19 are present in D2 (figs. 1-6, column 1, line 50 - column 3, line 46), therefore are these features not new.
- 3.4 The features of dependent claims 2 and 8 are present in D4 (figs. 12, 13, 14a; column 2, lines 25-41; column 4, lines 4-9; column 13, lines 11-41), therefore are these features not new.

4. Inventive step

Amended claims 15 and 21 appear to lack an inventive step.

5. Comments

- 5.1 The features of the claims are not provided with reference signs placed in parentheses (Rule 6.2(b) PCT).
- 5.2 Independent claim 1 is not in the two-part form in accordance with Rule 6.3(b) PCT, which in the present case would be appropriate, with those features known in combination from the prior art (document D1) being placed in the preamble (Rule 6.3(b)(i) PCT) and with the remaining features being included in the characterising part (Rule 6.3(b)(ii) PCT).